

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BOBCAR MEDIA, LLC,	:	X
	:	
Plaintiff,	:	<u>ORDER ADOPTING REPORT</u>
-against-	:	<u>AND RECOMMENDATION</u>
DEUTSCHE TELEKOM AG, et al.,	:	21 Civ. 5685 (AKH) (OTW)
	:	
Defendants.	:	
	:	
	X	

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ALVIN K. HELLERSTEIN, U.S.D.J.:

On March 23, 2023, Magistrate Judge Ona T. Wang issued a Report and Recommendation, which recommends that this Court grant in part and deny Defendants' motion to dismiss. *See* ECF No. 64. Plaintiff and Defendants timely filed objections, *see* ECF No. 65, 67, and timely responded to these objections, *see* ECF No. 71 and 72. Plaintiff also filed a reply to Defendants' response to Plaintiff's objections, *see* ECF No. 73, which prompted Defendants to file a motion to strike the reply as unauthorized by the Federal and Local Rules.

**I. Adopting Magistrate Judge Wang's Report and Recommendation**

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). A district court "must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(2). However, the court need only apply clear error review when a party "makes only conclusory or general objections, or simply reiterates his original arguments." *Bunbury v. Commissioner of Soc. Sec.*, 18-cv-10722, 2019 WL 6830204, at \*1 (S.D.N.Y. Dec. 13, 2019).

Although both sides' objections appear to "simply reiterate[]" the arguments initially made, I note nonetheless that even under *de novo* review, Magistrate Judge Wang's Report and Recommendation is well-reasoned and grounded firmly in the record. Accordingly, I adopt the Report and Recommendation in its entirety.

## **II. Defendants' Motion to Strike ECF No. 73**

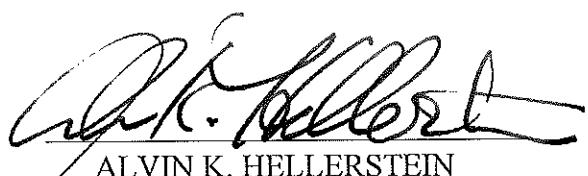
Defendants object to Plaintiff's filing of a reply brief in further support of its objections as procedurally improper. *See* ECF No. 73. The Federal and Local Rules governing objections to a magistrate judge's report and recommendation do not provide a reply opportunity regarding such objections. Nor did Plaintiffs seek leave from this court. The Court nevertheless reviewed Plaintiff's reply brief. This decision takes account of all Plaintiff's arguments in all its briefs. Defendants' motion is denied.

## **CONCLUSION**

Plaintiff's claim for utility patent infringement remains; all others are dismissed. Plaintiff shall file an amended complaint by February 14, 2024. Defendants shall file an Answer to the operative Complaint by February 28, 2024. The parties shall appear for a telephonic initial pretrial conference on March 15, 2024, at 10:00 a.m. No later than March 13, 2024 at 12 p.m., the parties shall jointly submit to the court (via HellersteinNYSDChambers@nysd.uscourts.gov) a proposed case management plan and list of appearances, along with their contact information. The Clerk is directed to close the open motions at ECF Nos. 31, 52, and 74.

SO ORDERED.

Dated: February 7, 2024  
New York, New York



ALVIN K. HELLERSTEIN  
United States District Judge